

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

JUSTIN GARDNER,

Petitioner,

vs.

STATE OF NEBRASKA,

Respondent.

8:18CV241

**MEMORANDUM
AND ORDER**

This matter is before the court on the Notice of Appeal ([filing no. 28](#)) filed by Petitioner on June 27, 2019. Petitioner appeals from the court's Memorandum and Order and Judgment dated June 12, 2019 ([filing nos. 26 & 27](#)), in which the court dismissed his habeas petition with prejudice. Also before the court is a memorandum from the Clerk of the Court requesting a ruling as to Petitioner's authorization to proceed in forma pauperis on appeal. ([Filing No. 29.](#))

As set forth in [Federal Rule of Appellate Procedure 24\(a\)\(3\)](#):

(a) Leave to Proceed in Forma Pauperis . . .

(3) Prior Approval. A party who was permitted to proceed in forma pauperis in the district-court action, or who was determined to be financially unable to obtain an adequate defense in a criminal case, may proceed on appeal in forma pauperis without further authorization, unless:

(A) the district court--before or after the notice of appeal is filed--certifies that the appeal is not taken in good faith or finds that the party is not otherwise entitled to proceed in forma pauperis and states in writing its reasons for the certification or finding . . .

The court finds that because Petitioner proceeded IFP in the district court, he may now proceed on appeal in forma pauperis without further authorization.

IT IS THEREFORE ORDERED that Petitioner may proceed on appeal in forma pauperis.

Dated this 1st day of July, 2019.

BY THE COURT:

s/ *Richard G. Kopf*
Senior United States District Judge